

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION, CINCINNATI

LYNN D. TUCKER, Jr., et al.,

Plaintiffs,

vs.

CITY OF FAIRFIELD, et al.,

Defendants.

CASE NO.
C-1-03-607

Deposition of: JANETTE MATALA

Taken: By the Plaintiffs
Pursuant to Notice

Date: July 17, 2006

Time: Commencing at 10:23 a.m.

Place: Cook, Portune & Logothetis
22 West Ninth Street
Cincinnati, Ohio 45202

Before: Amy E. Milholland
Notary Public - State of Ohio

COPY

1 incorrectly or incompletely, please correct me or
2 complete the step of the process to the best of your
3 knowledge, okay?

4 A. Okay.

5 Q. It appears to be standard practice that
6 you first discern who the owner of the sign or object
7 is, either from its location or from telephone
8 numbers or identity listed on the sign or object?

9 A. Correct.

10 Q. The second thing you do is attempt to
11 communicate with the owner or person or business, who
12 placed the object in the right of way, either by
13 using a phone number listed on the object or sign or
14 by looking for the business that's associated in the
15 immediate vicinity; is that correct?

16 A. That's correct.

17 Q. In the communication that you attempt, you
18 attempt to advise the business owner or person, who
19 has placed the object or sign in the right of way,
20 that they're in violation of the city's zoning code;
21 is that correct?

22 A. Correct.

23 Q. And you instruct them to remove it?

24 A. Correct.

25 Q. Following that, if they don't comply, most

1 often, you will call, if you observe it there, or it
2 continues to be in the right of the way, you then
3 communicate with them again that they have not
4 complied and that they have to remove it; is that
5 correct?

6 A. Correct.

7 Q. If after one or more verbal
8 communications, oral communications, the object or
9 sign remains in the right of way, you then send a
10 certified letter to the business or the person
11 identified, to the extent you've been able to
12 identify them, demanding that it be removed
13 immediately?

14 A. That's correct.

15 Q. Is that correct? Okay. Now, sometime
16 following the sending of certified letter to the
17 person or business owner or whomever placed an object
18 or a sign in the right of way in violation, as you
19 understand it, of the zoning code, if compliance has
20 still not occurred, you then issue a summons to that
21 person to appear in court?

22 MR. WEISENFELDER: Objection. Go ahead.

23 Q. Is that correct?

24 A. I write up a summons, and it's sent over
25 to the court. I do not actually issue the summons

1 itself.

2 Q. When you say it's sent over the the court,
3 it's sent to the court's clerk or what? How does
4 that work?

5 A. Yes. It's taken over to the court clerk,
6 and in return is given to the police department; and
7 they hand deliver the court summons.

8 Q. Now, does the summons constitute a
9 citation to court for violation of the zoning code?

10 A. Yes, it is.

11 Q. And in your experience when summonses are
12 served, after this process we've just walked through,
13 they're served by a police officer, who delivers it
14 in person?

15 A. Correct.

16 Q. Is that police officer usually just one
17 officer, just one person?

18 A. I have no idea.

19 Q. Have you ever observed a summons for a
20 zoning code violation being served?

21 A. No, I have not.

22 Q. You were not present on July 31st, 2003
23 when officer Fleener (phonetic) wrote the citation to
24 Mr. Tucker, were you?

25 A. No, I was not.

1 Q. And that was on July 1st?

2 A. That's correct.

3 Q. So the only times that you have been
4 involved in, now 18 years of service with the city of
5 Fairfield that the police have actually come to
6 enforce the zoning code immediately, are the two
7 instances involving the machinist demonstration in
8 front of Fairfield Ford on July 1st, 2003 and July
9 31st, 2003?

10 A. I was only present for the first one on
11 July 1st.

12 Q. And that's the only time, in your 18 years
13 experience, that the police have actually arrived on
14 the scene to enforce a zoning code violation, or
15 alleged zoning code violation?

16 MR. WEISENFELDER: While she was there?

17 MR. COOK: Correct.

18 A. Yes.

19 Q. Would you be aware of any others that have
20 occurred?

21 A. I had the police at another business that
22 assisted me at a location at a business on Route 4.

23 Q. For a zoning code sign or object
24 violation?

25 A. Yes, it was.

1 Fairfield Ford, but you did not identify an
2 individual from Fairfield Ford with whom you had
3 contact; do you recall the name of that person?

4 A. No, I do not.

5 Q. If I suggested it were Dan Johnson, would
6 that refresh your recollection?

7 A. I'm not sure.

8 Q. Searching your memory today, do you have a
9 clear memory of the communication with Fairfield Ford
10 on either July 1st or July 31st, or both, 2003?

11 A. Yes, I do.

12 Q. And searching your recollection today,
13 could you please state for the record exactly the
14 conversation you had with a representative from
15 Fairfield Ford starting with July 1st, 2003, please?

16 A. What I recall is that I received a call
17 towards the end of the day stating that the rat was
18 put up. And it was in the city's right of way, and
19 it was causing visibility and traffic, obstructing
20 traffic coming down Route 4. And I told them I would
21 be out to inspect it.

22 Q. If I may interrupt for just a moment.
23 It's your recollection that the caller stated that
24 there were visibility and traffic interruptions,
25 correct?

1 Q. And so it was located in that grassy area
2 between the edge of Fairfield Ford's property and the
3 gravel berm?

4 A. Yes, it was.

5 Q. Did you observe any traffic accidents
6 occurring while you were present?

7 A. No.

8 Q. And approximately how many demonstrators
9 were present at the time?

10 A. I don't recall exactly how many. There
11 were quite a bit of people there.

12 Q. At what point on July 1st, 2003 did you
13 determine you required assistance of the Fairfield
14 police department?

15 A. I tried to talk to the demonstrators and
16 ask them who was in charge of the demonstration and
17 who put the balloon up, or the rat up, and I got no
18 response from anybody.

19 Q. And that led you to do what?

20 A. To call the police for assistance.

21 Q. Do you have a clear memory in recollection
22 of your communication with the police department at
23 that time on that date?

24 A. I used my cell phone at the site.

25 Q. So the answer's yes, you do?

1 I talked to people. I told them I called for the
2 police department, and that's all I can remember.

3 BY MR. COOK:

4 Q. I want to make sure we're absolutely
5 clear. You did not call the police at the suggestion
6 or insistence of a representative of Fairfield Ford?

7 A. That is correct.

8 Q. Why did you deem it necessary to report to
9 the Fairfield Ford persons, or representatives, that
10 you had called the police?

11 A. Because I was getting no cooperation from
12 any of the union reps that were there or the
13 picketers. I felt that they were, like, mocking you
14 because they were not cooperating with you, and it
15 was my first time to the site. I had a city vehicle
16 and I had city identification, and there was still no
17 cooperation.

18 Q. I think, Miss Matala, you misunderstood my
19 question. You just told me why you thought it was
20 necessary to call the police. My question was, why
21 did you think it was necessary to report your action
22 of calling the police to someone from Fairfield Ford?
23 Why did they need to know that?

24 A. The call initially came to my office from
25 Fairfield Ford, so it just made common sense to me